

**AN ORDINANCE  
BY COUNCILMEMBER CLAIR MULLER**

**AN ORDINANCE TO AMEND SECTION 138-204 OF THE  
OUTDOOR FESTIVAL CODE FOR THE CITY OF ATLANTA TO  
REQUIRE COMPLIANCE WITH THE NOISE CONTROL CODE  
OF THE CITY OF ATLANTA; AND FOR OTHER PURPOSES.**

**WHEREAS**, it is declared to be the policy of the City of Atlanta to prohibit noise disturbances or unreasonable noise from all sources in order to secure and promote the public health, comfort, convenience, safety, welfare and prosperity of the citizens of Atlanta; and

**WHEREAS**, Article IV, Section 74-139 (l) of the Code of Ordinances for the City of Atlanta (attached as Exhibit A) states that any noise resulting from activities of a temporary duration, for which a special permit has been granted pursuant to this article, and which conforms to the conditions and limits stated thereon shall be exempt from the provisions of this article.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE  
CITY OF ATLANTA, GEORGIA as follows:**

**SECTION 1:** That Section 138-204 (c) be renumbered (d), so that the new Section 138-204 (d) shall read as follows:

(d) After the Chief of Staff approves the issuance of a permit the applicant may obtain such permit by agreeing to accept the classification and conditions imposed in accordance with this article, as well as the applicant's agreement to hold harmless the City of Atlanta and its officers and employees from any damages to persons or property on claims that arise from the permitted event (unless the applicant is prohibited by law from executing "hold harmless" agreements) and by paying the applicable permit fee and supplemental user fee deposit, which fees shall be determined according to the schedule set forth in Section 138-205.

**SECTION 2:** That Section 138-204 (c) be amended, so that the new Section 138-204 shall read as follows:

(c) As a condition of approval for any festival, and before the issuance of a permit, the applicant shall apply for a permit for a temporary variance from provisions of the Atlanta Noise Control Code, to be issued and implemented in accordance with Section 74-139 of the Code of Ordinances for the City of Atlanta. Any permit for a temporary variance will be issued in addition to any permit issued in accordance with the Atlanta Outdoor Festivals Ordinance.

**SECTION 3:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

appeal of any final decision of the director of public works under this article shall lie with the City of Atlanta Board of Zoning Adjustment. (Ord. No. 1996-42, 6-18-96)

**Secs. 74-113—74-128. Reserved.**

#### ARTICLE IV. NOISE CONTROL\*

##### [Sec. 74-129. Title.]

This article shall be known and may be referred to as the "Atlanta Noise Control Code" or the "Atlanta Noise Ordinance". (Ord. No. 2000-64, § 1, 12-13-00)

##### Sec. 74-131. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

*Ambient sound level* means the total sound pressure level in the area of interest excluding the noise source of interest (see, also, "background sound level," this section).

*A-weighting* means the electronic filtering in sound level meters that models human hearing frequency sensitivity.

*Background sound level* is the total sound pressure level in the area of interest excluding the noise source of interest (see also, "ambient sound level," this section).

*Commercial area* means a group of commercial facilities and the abutting public right-of-way and public spaces.

*Commercial facility* means any premises, property, or facility involving traffic in goods or furnishing of services for sale or profit, including but not limited to:

- (1) Banking and other financial institutions;

\*Editor's note—Ord. No. 2000-64, § 1, approved Dec. 13, 2000, repealed §§ 74-131—74-136 in their entirety. Formerly, said sections pertained to noise control regulations. Further, said ordinance section provided for noise control regulations to read as herein set out. See the Code Comparative Table.

**Cross reference**—Offenses and miscellaneous provisions, ch. 106.

- (2) Dining establishments;
- (3) Establishments for providing retail or wholesale services;
- (4) Establishments for recreation and entertainment;
- (5) Office buildings;
- (6) Transportation; and
- (7) Warehouses.

*Construction* means any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

*C-weighting* means the electronic filtering in sound level meters that models a flat response (output equals input) over the range of maximum human hearing frequency sensitivity.

*dBA* means an A-weighted unit of sound level.

*dB C* means a C-weighted unit of sound level.

*Decibel (dB)* means the unit of measurement for a sound pressure level and is equal to ten times the common logarithm of the ratio of two like quantities (see "sound pressure level").

*Emergency work* means any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, or abating life-threatening conditions.

*Equivalent sound level (Leq)* means the non-varying sound level that would contain the equivalent amount of energy as a varying sound level. Note that Leq can be weighted or unweighted and can be integrated over durations ranging from less than a second to many hours. The notation should indicate weighting used and duration, e.g., 85 dBC Leq (six min.) is a C weighted 85 decibel equivalent sound level, integrated over a six-minute period.

*Impulsive sound* means a sound having duration of less than one second with an abrupt onset and rapid decay.

*Industrial facility* means any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, or production of durable or nondurable goods.

*Maximum sound level (Lmax)* means the maximum root mean square sound level measured or not to be exceeded by time varying sounds.

*Motor vehicle* means any vehicle that is propelled or drawn on land by an engine or motor.

*Muffler* means a sound-dissipative device or system for lessening the sound of the exhaust of an internal combustion engine.

*Multidwelling unit building* means any building wherein there are two or more dwelling units.

*The municipality* means the City of Atlanta, Georgia.

*Noise* means any sound of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the city or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazard within the confines of a place of employment.

*Noise control administrator (NCA)* means the noise control office designated as the official liaison with all municipal department empowered to grant permits for temporary variances.

*Noise control officer (NCO)* means an officially designated employee the municipality trained in the measurement of sound and empower to issue a summons for violations of this article.

*Noise disturbance* means any sound that (a) endangers the safety or health of any person, (b) disturbs a reasonable person of normal sensitivities, or (c) endangers personal or real property.

*Peak sound level (Lpk)* means the absolute positive or negative value (not the root mean square value) of the sound energy in a discrete event typically of very short duration.

*Person* means any individual, corporation, company, association, society, firm partnership, joint

stock company, the municipality any political subdivision, agency or instrumentality of the municipality.

*Public right-of-way* means any street, avenue, boulevard, road, highway sidewalk, or alley that is leased, owned, or controlled by a governmental entity.

*Public space* means any real property or structures thereon that is own leased, or controlled by a governmental entity.

*Pure tone* means a sound dominated by energy in a single frequency.

*Real property line* is either (a) the imaginary line, including vertical extension, that separates one parcel of real property from another, or (b) the vertical and horizontal boundaries of a dwell unit that is one in a multidwelling unit building.

*Residential area* means a group of residential properties and the abutting public rights-of-way and public spaces.

*Residential property* means property used for human habitation, including but not limited to: a. Private property used for human habitation; b. Commercial living accommodations and commercial property used for human habitation; c. Recreational and entertainment property used for human habitation; and d. Community service property used for human habitation.

*Sound level* (per ASTM C 634) means a sound pressure level obtained using a signal to which standard weighting has been applied.

*Sound level meter (SLM)* means an instrument used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in ANSI Standard S 1.4-1983 or the latest version thereof.

*Sound pressure level (SPL)* means the ratio in decibels of the square of the root mean square sound pressure divided by the square of the standard reference sound pressure of 20µPa. Mathematically, this is expressed as  $10 \cdot \log p^2/P^2 \text{ ref}$ ,  $= 20 \cdot \log P/P \text{ ref}$ ,  $P \text{ ref} = 20 \mu\text{Pa}$ .

*Tonal sound* means a sound dominated by energy in a narrow band of frequencies.

*Weekday* means the time period of each week that begins at 11:00 p.m. on each Sunday and ends at 5:00 p.m. on each Friday.

*Weekend* means the time period of each week that begins at 5:00 p.m. on each Friday and ends at 11:00 p.m. on each Sunday.  
(Ord. No. 2000-64, § 1, 12-13-00)

#### **Sec. 74-132. Scope.**

The provisions of this article shall apply to the control of all noise originating within the geographical limits of the city and outside the city limits, within all territory to which the jurisdiction of the City of Atlanta, Georgia extends.  
(Ord. No. 2000-64, § 1, 12-13-00)

#### **Sec. 74-133. Declaration of policy.**

The provisions hereinafter contained are enacted for the purpose of preventing noise disturbances or unreasonable noise. Above certain levels, unreasonable noise or noise disturbance is detrimental to the health and welfare of the citizenry and the individual's right to peaceful and quiet enjoyment. Therefore, it is hereby declared to be the policy of the city to prohibit noise disturbances or unreasonable noise from all sources, subject to its police power in order to secure and promote the public health, comfort, convenience, safety, welfare, and prosperity of the citizens of Atlanta. Nothing in this article is intended to deter individuals from lawfully exercising the individual right to freedom of speech or any other freedom guaranteed under the Constitutions of the United States of America or of the State of Georgia.  
(Ord. No. 2000-64, § 1, 12-13-00)

#### **Sec. 74-134. Powers, duties, and qualifications of the noise control officers and administrators; duties and responsibilities of other departments.**

(a) The noise control officers (NCOs), who shall be city police officers or other individuals as delegated under in section 74-134 (b)(3), shall enforce the provisions of this article.

(b) The noise control administrator (NCA) shall be the commissioner of the department of public works or his designee and shall have the power to:

- (1) Coordinate the noise control activities of all municipal departments and cooperate with all other public bodies and agencies to the extent practicable;
- (2) Review the actions of other municipal departments and advise such departments of the effect, if any, of such actions on noise control;
- (3) delegate the duties of the NCO to any duly qualified individual according to the provisions of section 74-134(c); and
- (4) Grant permits for temporary variances according to the provisions of section 74-139.

(c) A person shall be qualified to be an NCO if the person has satisfactorily completed any of the following:

- (1) An instructional program in community noise from a certified noise control engineer, as evidenced by certification from the Institute of Noise Control Engineering (INCE); or
- (2) A registered professional engineer practicing in the field of acoustics; or
- (3) An instructional program in community noise from another NCO; or
- (4) Education or experience or a combination thereof certified by the NCA as equivalent to the provisions of (1) or (2) of this section.

(d) Noise measurements taken by a NCO shall be taken in accordance with the procedures specified in this article.

(e) The provisions of this article shall not apply to any department or agency of the city engaged in any emergency activities or as otherwise excluded under section 74-138 of this article. However, all city departments and agencies shall carry out their programs according to the law and shall cooperate with the assessment and consid-

eration of the possible impact of their activities with regard to the reduction of noise disturbances and the other purposes of this article.

(Ord. No. 2000-64, § 1, 12-13-00)

**Sec. 74-135. Sound measurement procedures.**

(a) Insofar as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions, including but not limited to, design, maximum, and fluctuating rates. All noise measurements shall be made at or within the property line of the impacted site, unless otherwise directed in this noise article. When instrumentation cannot be placed at or within the property line, the measurement shall be made as close thereto as is reasonable. However, noise measurements shall not be made at a distance of less than 25 feet from the edge of a noise source. For the purposes of this article, noise measurements are measured on the A- or C-weighting scale, as applicable, of a sound level meter (SLM) of standard design and quality having characteristics established by the American National Standards Institute (ANSI).

(b) All tests shall be conducted in accordance with the following procedures:

- (1) The NCO shall, to the extent practicable, identify all sources contributing sound to the point of measurement.
- (2) Measurements shall be taken at or within the property line of the affected person or persons.
- (3) The SLM must be calibrated using a calibrator recommended by the SLM manufacturer before and after each series of readings and at least once each hour.
- (4) The SLM must be recertified and the calibrator must be recalibrated at least once each year by the manufacturer or by a person that has been approved by the NCA. A copy of written documentation of such recertification and recalibration, in a form approved by the NCA, shall be kept with the equipment to which it refers.

(5) No outdoor measurements shall be taken:

- a. During periods when wind speeds (including gusts) exceed 15 mph;
- b. Without a windscreen, recommended by the SLM manufacturer, properly attached to the SLM;
- c. Under any condition that allows the SLM to become wet; or
- d. When the ambient temperature is out of the range of the tolerance of the SLM.

(c) The report for each measurement session shall include:

- (1) The date, day of the week, and times at which measurements are taken;
- (2) The times of calibration;
- (3) The weather conditions;
- (4) The identification of all monitoring equipment by manufacturer, model number, and serial number;
- (5) The normal operating cycle of the sources in question with a description of the sources;
- (6) The ambient sound level, in dBA, with the sources in question operating;
- (7) The background sound level, in dBA, without the sources in question operating; and
- (8) A sketch of the measurement site, including measurement locations and relevant distances, containing sufficient information for another investigator to repeat the measurements under similar conditions.

(d) Prior to taking noise measurements, the investigator shall explore the vicinity of the source in question to identify any other sound sources that could affect measurements, to establish the approximate location and character of the principal sound source, and to select suitable locations from which to measure the sound from the source in question.

(e) When measuring continuous sound, or sound that is sustained for more than one second at a time, the SLM shall be set for A-weighting, slow meter response speed, and the range (if the SLM

is designed to read levels over different ranges of SPLs) shall be set to that range in which the meter reads closest to the maximum end of the scale. When the measured sound level is variable or fluctuating over a range greater than  $\pm 3$  dBA, using the slow meter response speed, the fast meter response speed shall be used. In either case, both the minimum and maximum readings shall be recorded to indicate the range of monitored values.

(f) The SLM shall be placed at a minimum height of three feet above the ground or from any reflective surface. When handheld, the microphone shall be held at arm's length and pointed at the source at the angle recommended by the SLM manufacturer.

(g) If extraneous sound sources, such as aircraft flyovers or barking dogs, that are unrelated to the measurements increase the monitored sound levels, the measurements should be postponed until these extraneous sounds have become of such a level as not to increase the monitored sound levels of interest.

(h) The monitoring session should last for a period of time sufficient to ensure that the sound levels measured are typical of the source in question, but in no event shall the duration of testing be less than five minutes.

(i) The background sound levels shall be subtracted from the measured sound levels of the source of interest by using Table 1 to determine the sound levels from the source of interest alone. If the ambient sound level is less than three dBA higher than the background sound level, the source level cannot be derived and a violation of the article cannot be substantiated.

Table 1: Correction for background levels  
(in dBA).

<i>Difference between ambient and background sound levels</i>	<i>Correction factor to be subtracted from ambient level for source level</i>
3	3
4, 5	2
6—9	1
10 or more	0

(Ord. No. 2000-64, § 1, 12-13-00)

#### Sec. 74-136. Sound level limitations.

(a) No person shall cause, suffer, allow, or permit the operation of any noise source on a particular category of property or any public space or right-of-way in such a manner as to create a sound level that exceeds the ambient sound level by ten dBA or more during daytime hours (9:01 a.m.—10:00 p.m.) or five dBA or more during nighttime hours (10:01 p.m.—9:00 a.m.) when measured at or within the real property line of the receiving property, except as provided in section 74-138. Such a noise source would constitute a noise disturbance if it continues in excess of six minutes, unless otherwise provided herein.

- (1) If the ambient sound level cannot be determined, the absolute sound level limits set forth in Table 2 shall be used.

Table 2: Maximum permissible sound levels Leq dB (A) - Averaged over six minutes

<i>Receiving property</i>	<i>Daytime (9:01 a.m.— 10:00 p.m.)</i>	<i>Nighttime (10:01 p.m.— 9:00 a.m.)</i>
Zoning classification	55	50
R1—R5 or RG		
Commercial	70	65
Industrial	75	70

At no time shall noise levels be produced that exceed 65 dB(C) Leq (one second) at a residential receiving property line.

- (2) If the sound source in question is a pure tone, then the sound level limitations as set forth in subsection 74-136(a) shall be reduced by five dB.
- (3) Non-repetitive impulsive sound sources shall not exceed 100 dB(C) at or within a residential real property line, using the fast meter response speed.

(b) Inside multi-family dwelling unit buildings, if the ambient sound level cannot be determined, the daytime limit is 45 dBC and the nighttime limit is 35 dBC for sounds originating in another dwelling within the same building.  
(Ord. No. 2000-64, § 1, 12-13-00)

#### Sec. 74-137. Specific prohibited acts.

(a) It is unlawful and a violation of this Code for any person to cause, suffer, allow, or permit to be made verbally or mechanically any noise disturbance, as defined in section 74-136(a).

(b) No person shall cause, suffer, allow, or permit the following acts:

- (1) Operating, playing, or permitting the operation or playing of any radio, television, phonograph, or voice amplification device that reproduces or amplifies sound (including devices in motor vehicles) in such a manner as to create a noise disturbance for any person other than the operator of the device;
- (2) Using or operating any loudspeaker, public address system, or similar voice amplification device, unless participating in a specifically permitted activity.
- (3) Owning, possessing, or harboring any animal or bird that, for a continued duration in excess of 15 minutes, generates sounds that create a noise disturbance across a residential real property line;
- (4) Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, garbage cans, refuse, or similar objects, or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder, or pellet form, or the compacting of refuse by persons engaged in the business of scavenging or garbage collection, whether private or municipal, between 9:00 p.m. and 7:00 a.m. the following day on a weekday and between 9:00 p.m. and 9:00 a.m. the following day on a weekend day or legal holiday, except by permit, when the sound therefrom creates a noise disturbance across a residential property line;
- (5) Operating or permitting the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period of longer than five minutes in any hour while the vehicle is stationary; for reasons other than traffic congestion or emergency work, and where such vehicle's manufacturer's gross weight rating is in excess of 10,000 lbs., on a public right-of-way or public space within 150 feet of a residential area between 8:00 p.m. and 8:00 a.m. the following day;

- (6) Operating or permitting the operation of any power tools or other motorized equipment used in construction, drilling, earthmoving, excavating, or demolition work between 7:00 p.m. and 7:00 a.m. the following day on a weekday or between 7:00 p.m. and 9:00 a.m. on a weekend day or legal holiday, except for emergency work by permit for temporary variance pursuant to section 74-139.

(Ord. No. 2000-64, § 1, 12-13-00)

#### **Sec. 74-138. Exemptions.**

(a) The provisions of this article shall not apply to the generation of sound by public safety vehicles, emergency signaling devices, or authorized public safety personnel for the purpose of alerting persons to the existence of any emergency.

(b) Noise from an exterior burglar alarm of any building shall be exempt from the provisions of this article, provided such burglar alarm shall terminate its operation within 15 minutes of its activation.

(c) Noises from any automobile alarm shall be exempt from the provisions of this article, provided such burglar alarm shall terminate its operation within ten minutes of its activation.

(d) Noise from domestic power tools, lawn mowers, and agricultural equipment when operated between 8:00 a.m. and 8:00 p.m. on weekdays and between 9:00 a.m. and 8:00 p.m. on weekends and legal holidays shall be exempt from the provisions of this article, provided they generate less than 85 dBA at or within any real property line of a residential property outside of the property where the noise in question originates, and all noises from tools and lawn mowers operated in association with the upkeep and maintenance of any public or private golf course shall be exempt from the provisions of this article, provided that all such tools and lawn mowers are equipped with mufflers or are operated in conjunction with a device or system for lessening the sounds produced;

(e) Sound from church bells and chimes when a part of a religious observance or service shall be exempt from the provisions of this article during daytime hours (9:01 a.m.—10:00 p.m.);

(f) Noise from permitted construction activity shall be exempt from the provisions of this article, provided all motorized equipment used in such activity is equipped with functioning mufflers, except as provided in section 74-137(b)(6).

(g) Noise from snow blowers, snow throwers, and snowplows when operated with a muffler for the purpose of snow removal shall be exempt from the provisions of this article.

(h) The generation of sound in the performance of emergency work shall be exempt from the provisions of this article.

(i) The generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration shall be exempt from the provisions of this article.

(j) Noise generated from municipally sponsored or approved celebrations or events shall be exempt from the provisions of this article.

(k) Noises resulting from the operation of the Hartsfield Atlanta International Airport shall be exempt from the provisions of this article.

(l) Any noise resulting from activities of a temporary duration, for which a special permit has been granted pursuant to this article, and which conforms to the conditions and limits stated thereon shall be exempt from the provisions of this article.

(m) Noises resulting from any practice or performance sponsored by or associated with the educational process administered by a recognized institution of learning, including, but not limited to band, choir, and orchestral performances shall be exempt from the provisions of this article.

(n) Noises that result from or arise out of or stem from the occurrence of a professional sporting event or organized sports league shall be exempt from the provisions of this article.

(o) Any temporary noise arising out of maintenance, renovation or construction activities related to the Metropolitan Atlanta Rapid Transit Authority (MARTA) rail system shall be exempt

from the provisions of this article. Said exemption will expire seven years after the effective date of this amendment.

- (1) MARTA will develop and implement procedures by which NPU's affected by planned maintenance activities will be notified prior to the commencement of work.
- (2) MARTA will develop and implement procedures by which any nuisances created by planned maintenance activities and reported by citizens are forwarded to the chair of the public safety and legal administration committee and the administration.
- (3) MARTA will develop and implement procedures by which contractors conducting planned maintenance on the rail system will be monitored so as to ensure that all work is performed in a manner that will result in the creation of the least amount of noise disturbance.

(Ord. No. 2000-64, § 1, 12-13-00; Ord. No. 2002-5, § 1, 2-13-02)

#### **Sec. 74-139. Conditions for permits for temporary variance.**

(a) Any person who owns or operates any stationary noise source may apply to the NCA for a temporary variance from one or more of the provisions of this article. Applications for a permit of temporary variance shall supply information including, but not limited to:

- (1) The nature and location of the noise source for which such application is made;
- (2) The reason for which the permit of temporary variance is requested, including the hardship that will result to the applicant, his/her client, or the public if the permit of temporary variance is not granted;
- (3) The level of noise that will occur during the period of the temporary variance;
- (4) The section or sections of this ordinance for which the permit of temporary variance shall apply;



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- (5) A description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring therefrom; and
- (6) A specific schedule of the noise control measures that shall be taken to bring the source into compliance with this article within a reasonable time.

(a1). Failure to supply the information required by the NCA shall be cause for rejection of the application.

(a2) A copy of the permit of temporary variance must be kept on file by the municipal clerk for public inspection.

(b) The NCA shall charge the applicant a fee of \$25.00 to cover expenses resulting from the processing of the application for a permit of temporary variance.

(c) The NCA may, at his/her discretion, limit the duration of the permit of temporary variance, which, in any event, shall be effective no longer than 45 days. Any person holding a permit of temporary variance and requesting an extension of time shall apply for a new permit of temporary variance under the provisions of this section.

(d) No temporary variance shall be approved unless the applicant presents adequate proof that:

- (1) Noise levels occurring during the period of the temporary variance will not constitute a danger to public health; and
- (2) Compliance with the article would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.

(e) In making the determination of granting a temporary variance, the NCA shall consider the following factors:

- (1) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused;
- (2) The social and economic value of the activity for which the temporary variance is sought; and

- (3) The ability of the applicant to apply the best practical noise control measures.

(f) The permit of temporary variance may be revoked by the NCA if the terms of the permit of temporary variance are violated.

(g) A temporary variance permit may be revoked by the NCA if there is:

- (1) Violation of one or more conditions of the temporary variance;
- (2) Material misrepresentation of fact in the temporary variance application; or
- (3) Material change in any of the circumstances relied on by the NCA in granting the temporary variance.

(Ord. No. 2000-64, § 1, 12-13-00)

### Sec. 74-140. Enforcement procedures.

(a) Violation of any provision of this article shall be cause for a citation to be issued by the NCO according to procedures set forth in the City Code of Ordinances.

(b) In lieu of issuing a citation, the NCO may issue an order requiring abatement of any sound source alleged to be in violation of this article within a reasonable time period and according to guidelines that the NCO may prescribe.

(c) Any person who violates any provision of this article shall be subject to a fine for each offense of not more than \$ 1,000.00.

- (1) If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.

- (d) No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this article or from other law.

(Ord. No. 2000-64, § 1, 12-13-00)

### Sec. 74-141. Inconsistent provisions.

Insofar as the provisions of this Code are inconsistent with any provision of any other title

of the Code, or any rule or regulation of any government agency of the city, then the provisions of this noise control code shall be controlling. (Ord. No. 2000-64, § 1, 12-13-00)

#### **Sec. 74-142. Severability.**

If any provision, clause, sentence or paragraph of this Code, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this article which can be given effect without the invalid provisions or application and, to this end, the provisions of this Code are hereby declared to be severable. (Ord. No. 2000-64, § 1, 12-13-00)

#### **Secs. 74-143—74-160. Reserved.**

### **ARTICLE V. NUISANCES\***

#### **Sec. 74-161. Jurisdiction to abate.**

(a) *Summary abatement.* Any judge of the municipal court or the mayor or designee shall have the power to order the removal and abatement, without hearing, of those things which are declared either by the common or by the statute law to be nuisances, or which are nuisances per se and from their nature indisputably are so.

(b) *Service of notice to abate.* Any requirement of service of notice to abate a nuisance, which may be summarily abated, may be complied with by the mailing of such notice by registered mail to the last-known address of the person so to be notified.

(c) *Service on complaint to abate a nuisance.* On the hearing of any complaint before a judge of the municipal court concerning a nuisance and removal and abatement, reasonable notice by personal service shall be given to the parties interested, the owner or occupant of the premises

\*Cross reference—Offenses and miscellaneous provisions, ch. 106.

Land development code reference—Nuisance in or around buildings, § 17-9013.

where the alleged nuisance is taking place, or upon the person causing the nuisance, of the time and place of the hearing upon the complaint.

(d) *Persons authorized to perform the removal or abatement of nuisances.* After a nuisance has been ordered to be abated or removed, as provided in this section, it may be removed or otherwise abated by any employee designated by the mayor. (Code 1977, § 17-9001)

#### **Sec. 74-162. Collection by execution of cost of abatement of nuisance.**

Where any person ordered to do any work for the purpose of abating a nuisance has failed or refused to do that work, and the work has been done by the employees of the city, the cost thereof may be collected by execution against that person and that person's property. Each execution shall be prepared by the department charged with the duty of abating or removing the nuisance, shall be signed by the clerk of the council and shall be delivered to the revenue collection administrator, ex officio marshal, for collection as other executions are collected. (Code 1977, § 17-9002)

#### **Sec. 74-163. Refusal to comply with an order to abate a nuisance.**

The failure or refusal of a person ordered to abate a nuisance after a hearing, or upon a summary abatement, shall, in addition to subjecting the person to punishment for contempt if the order is issued by the judge of the municipal court, constitute an offense which, upon conviction, shall be punished as provided in section 1-8. Each day's failure or refusal to comply with the order, after the expiration of the time allowed in which to remove or abate the nuisance, shall constitute a separate offense. (Code 1977, § 17-9003)

#### **Sec. 74-164. Abandoned iceboxes, refrigerators, vehicles, similar devices.**

It shall be a nuisance per se and shall be unlawful for any person to have in that person's possession or under that person's control upon any premises owned or occupied by that person,

which premises are frequented by or accessible to children for playing or other purposes, the following items:

- (1) Any icebox, refrigerator or similar device, abandoned or not being put to the use for which it was intended, which is equipped with any lock or locking device by which the door on such icebox, refrigerator or similar device, when closed, cannot be opened from the inside, or which impedes or makes more difficult the opening of the door from the inside thereof; or
- (2) Any motor vehicle, abandoned or not being put to the use for which it was intended, which is equipped with any lock or locking device by which the windows or doors on the vehicle, when closed, cannot be opened from the inside, or which impedes or makes more difficult the opening of the door from the inside thereof.

(Code 1977, § 17-9004)

**State law reference**—Abandoned containers, O.C.G.A. § 16-11-100.

**Sec. 74-165. Disposal of fecal matter, dead animals, tainted meat, waste, similar matter.**

It shall constitute a nuisance per se and shall be unlawful to place or throw or cause another to place or throw, in or upon any street, or public or private property of another, any dead bird or